

**Remarks:**

**I. Introduction**

In the Office Action mailed on September 2, 2009, the Examiner rejected claims 1 to 4 and 6 to 17. The present amendment cancels claims 7 and 8, amends claims 1 and 6, and adds no new claims. Accordingly, claims 1 to 4, 6, and 9 to 17 remain pending in this application.

**II. Claim Rejections based on § 102(b)**

The Examiner rejected claims 1 to 3, 6 to 12, and 15 to 17 pursuant to 35. U.S.C. § 102(b) as being anticipated by Kilcoyne et al. (US 6,264,700).

In response to the Examination Report dated 2 September 2009, we enclose an amended set of claims in which the subject matter of original claims 7 and 8 has been incorporated into claim 1. Independent claim 1 now requires that the flange comprises a conduit having a plurality of apertures which open onto a stomach contacting face of the flange through which adhesive may be pumped in order to enable the device to be secured to the stomach wall.

The Examiner is of the opinion that the subject matter of original claims 7 and 8 (now incorporated into claim 1) is anticipated by Kilcoyne (US Patent 6,264,700). The Examiner states that Kilcoyne discloses that "the flange defines a conduit, where the flange comprises apertures (38)." However, referring to Kilcoyne it is apparent that only a single aperture (38) is provided, and this single aperture opens onto a side of the Kilcoyne device facing away from the stomach wall, as opposed to "opening onto a stomach contacting side of the flange" as required by amended claim 1 of the present application. It is therefore submitted that the subject matter of amended claim 1 is not anticipated by Kilcoyne. In addition, the term "substantially" has been deleted from amended claim 1, and it is therefore further submitted that the broad interpretation applied by the Examiner in connection with the flange of the Kilcoyne device being disposed "substantially" circumferentially about the valve, no longer applies. Thus it is respectfully submitted that the device of Kilcoyne does not include a flange which is disposed circumferentially about the valve. For these reasons the subject matter of amended claim 1 is not anticipated by Kilcoyne.

Turning then to obviousness, it is apparent that neither Kilcoyne nor Taylor disclose or reasonably suggest the provision of a conduit integrated into the flange of the valve, which

conduit includes a plurality of apertures opening onto a stomach facing side of the flange in order to allow adhesive to be pumped onto the flange in order to secure the valve in position. It is therefore respectfully submitted that the subject matter of amended claim 1 is not obvious in light of either Kilcoyne or Taylor, or a combination of both.

It is therefore respectfully submitted that amended claim 1 of the present application is both novel and nonobvious over the prior art relied upon by the Examiner.

Independent claim 1, and claims dependent therefrom, are allowable because they each include the limitations of “wherein the retention means comprises a flange disposed circumferentially about the valve” and “which flange comprises a conduit having a plurality of apertures opening onto a stomach contacting side of the flange and through which an adhesive may be pumped onto the stomach contacting side of the flange to enable the device to be secured to the stomach wall.” No prior art of record reasonably discloses or suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

#### **IV. Claim Rejections based on § 103(a)**

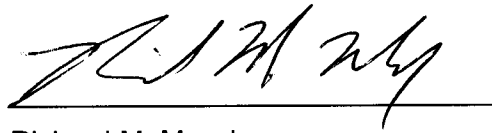
The Examiner rejected claims 4, 13, and 14 pursuant to 35. U.S.C. § 103(a) as unpatentable over Kilcoyne et al. (US 6,264,700) in view of Taylor (US 6,254,642).

Claims 4, 13 and 14 are allowable as depending from allowable claim 1 as discussed above and independently allowable for the novel and nonobvious matter contained therein. Reconsideration and withdrawal of the rejection is requested.

#### **V. Conclusion**

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that the present response does not place the application in a condition for allowance, Applicant's undersigned attorney requests that the Examiner initiate a telephone interview to expedite prosecution of the application. If there are any fees resulting from this communication, please charge same to our Deposit Account No. 50-3915.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. M. Mescher', is written over a horizontal line.

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